



# भारत का राजपत्र

## The Gazette of India

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in Lok Sabha on 14th August 1997:—

## BILL NO. 118 OF 1997

*A Bill to provide for the creation of Legislative Councils for the States of Punjab and Tamil Nadu and for matters supplemental, incidental and consequential thereto.*

BE it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Legislative Councils Act, 1997.

Short title.

Definition.

43 of 1950.

2. In this Act, unless the context otherwise requires, each of the words and expressions used herein and not defined but defined in the Representation of the People Act, 1950, shall have the same meaning as in that Act.

Creation of  
Legislative  
Council for  
Punjab.

3. (1) As from such date as the President may by order appoint, there shall be a Legislative Council for the State of Punjab; and as from that date, in sub-clause (a) of clause (1) of article 168 of the Constitution, after the word "Karnataka", the word "Punjab" shall be inserted.

(2) In the said Council, there shall be 40 seats of which—

(a) the numbers to be filled by persons elected by the electorates referred to in sub-clauses (a), (b) and (c) of clause (3) of article 171 shall be 14, 3 and 3 respectively;

(b) the number to be filled by persons elected by the members of the Legislative Assembly of Punjab in accordance with the provisions of sub-clause (d) of the said clause shall be 14; and

(c) the number to be filled by persons nominated by the Governor of Punjab in accordance with the provisions of sub-clause (e) of that clause shall be 6.

(3) As soon as may be after the commencement of this Act, the President, after consultation with the Election Commission, shall by order, determine—

(a) the constituencies into which the State of Punjab shall be divided for the purpose of elections to the said Council under each of the sub-clauses (a), (b) and (c) of clause (3) of article 171;

(b) the extent of each constituency; and

(c) the number of seats to be allotted to each constituency.

(4) As soon as may be after such determination, steps shall be taken to constitute the said Council in accordance with the provisions of this Act, the Representation of the People Act 1950 and the Representation of the People Act, 1951.

43 of 1950.  
43 of 1951.

**Creation of Legislative Council for Tamil Nadu.**

4. (1) As from such date as the President may by order appoint, there shall be a Legislative Council for the State of Tamil Nadu; and as from that date, in sub-clause (a) of clause (J) of article 168 of the Constitution, before the words "and Uttar Pradesh", the words "Tamil Nadu" shall be inserted.

(2) In the said Council, there shall be 63 seats of which—

(a) the numbers to be filled by persons elected by the electorates referred to in sub-clauses (a), (b) and (c) of clause (3) of article 171 shall be 21, 6 and 6 respectively;

(b) the number to be filled by persons elected by the members of the Legislative Assembly of Tamil Nadu in accordance with the provisions of sub-clause (d) of the said clause shall be 21; and

(c) the number to be filled by persons nominated by the Governor of Tamil Nadu in accordance with the provisions of sub-clause (e) of that clause shall be 9.

(3) As soon as may be after the commencement of this Act, the President, after consultation with the Election Commission, shall by order, determine—

(a) the constituencies into which the State of Tamil Nadu shall be divided for the purpose of elections to the said Council under each of the sub-clauses (a), (b) and (c) of clause (3) of article 171;

(b) the extent of each constituency; and

(c) the number of seats to be allotted to each constituency.

(4) As soon as may be after such determination, steps shall be taken to constitute the said Council in accordance with the provisions of this Act, the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

43 of 1950.  
43 of 1951.

**Amendment of Third and Fourth Schedules of Act 43 of 1950.**

5. In the Representation of the People Act, 1950,—

(a) in the Third Schedule, after entry 6 relating to Karnataka, the following entries shall be inserted, namely:—

"7. Punjab

40 14 3 3 14 6

7A. Tamil Nadu

63 21 6 6 21 9";

(b) in the Fourth Schedule, after the heading "KARNATAKA" and the entries thereunder, the following headings and entries shall be inserted, namely:—

"PUNJAB

1. Municipal Corporations.
2. Municipal Councils.
3. Nagar Panchayats.
4. Zila Parishads.
5. Panchayat Samitis.
6. Cantonment Boards.

TAMIL NADU

1. Municipalities.
2. Panchayat Union Councils
3. Cantonment Boards
4. District Panchayats."

37 of 1957. 6. In section 15A of the Representation of the People Act, 1951, for the words and figures "Andhra Pradesh under the Legislative Councils Act, 1957", the words and figures "Punjab and the Legislative Council of the State of Tamil Nadu under the Legislative Councils Act, 1997" shall be substituted.

Amendment  
of section  
15A of Act  
43 of 1951.

## STATEMENT OF OBJECTS AND REASONS

Under article 169 of the Constitution, Parliament may, by law, provide for the creation of a Legislative Council in a State having no such Council, if the Legislative Assembly of the State passes a resolution to that effect by a majority of not less than two-thirds of the Members of the Assembly present and voting. The Legislative Assembly of Tamil Nadu passed a resolution on 26th July, 1996 and the Legislative Assembly of Punjab passed a resolution on 7th April, 1993 in terms of article 169 of the Constitution for the creation of Legislative Councils in those States. It is accordingly proposed to provide for the creation of Legislative Councils for the States of Tamil Nadu and Punjab respectively. The said Councils will have the same number of seats as they had when they were abolished.

2. The Bill seeks to achieve the said objects and also provides for matters supplemental, incidental and consequential to the creation of such Councils.

NEW DELHI;  
*The 8th August, 1997.*

RAMAKANT D. KHALAF.

**BILL No. 120 OF 1997****ARRANGEMENT OF CLAUSES**

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**CLAUSES****CHAPTER I****PRELIMINARY**

1. Short title, extent and commencement.
2. Definitions.

**CHAPTER II****CENTRAL ELECTRICITY REGULATORY COMMISSION**

3. Establishment and incorporation of Central Commission.
4. Constitution of the Selection Committee to recommend Members.
5. Qualification for appointment of Chairperson and other Members of the Central Commission.
6. Term of office, salary and allowances and other conditions of service of Chairperson and Members.
7. Removal of Members.
8. Officers of the Central Commission and other staff.
9. Proceedings of the Central Commission.
10. Vacancies, etc. not to invalidate the proceedings of the Central Commission.
11. Expenses of Central Commission to be charged on Consolidated Fund of India.
12. Powers of the Central Commission.

**CHAPTER III****POWERS AND FUNCTIONS OF THE CENTRAL COMMISSION**

13. Functions of the Central Commission.
14. Arbitrator to adjudicate and settle disputes.
15. Appeal to High Court in certain cases.

**CHAPTER IV****STATE ELECTRICITY REGULATORY COMMISSION**

16. Establishment and incorporation of State Commission.
17. Constitution of Selection Committee by the State Government.
18. Term of office, salary and allowances and other conditions of service of Members.
19. Removal of Members.
20. Officers of the State Commission and other staff.

**CHAPTER V****POWERS AND FUNCTIONS OF THE STATE COMMISSION****CLAUSES**

21. Functions of the State Commission.
22. Application of certain provisions relating to Central Commission to State Commission
23. Appeal to Central Commission in certain cases.

**CHAPTER VI****ENERGY TARIFF**

24. Power to fix tariff.

**CHAPTER VII****REPORT**

25. Power to call for reports, returns and statements from Central Commission.
26. Power to call for reports, returns and statements from State Commission.

**CHAPTER VIII**

27. Members, officers and employees of Central Commission to be public servants.
28. Protection of action taken in good faith.
29. Punishment for non-compliance of orders or directions under the Act.
30. Punishment for non-compliance of directions given by a Commission.
31. Offence by companies.
32. Cognizance of offences.
33. Inconsistency in laws.
34. Delegation.
35. Overriding effect.
36. Power to give directions.
37. Power of Central Government to make rules.
38. Power of Central Commission to make regulations.
39. Rules and regulations to be laid before Parliament.
40. Power of State Government to make rules.
41. Power of State Commission to make regulation.
42. Rules and regulations to be laid before State Legislature.
43. Power to remove difficulties.

*A Bill to provide for the establishment of a Central Electricity Regulatory Commission and State Electricity Regulatory Commission, rationalization of electricity tariff and matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Forty-eighth Year of the Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

1. (1) This Act may be called the Electricity Regulatory Commissions Act, 1997.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Short title,  
extent and  
commencement

Definitions.

**2. In this Act, unless the context otherwise requires,—**

(a) "Central Commission" means the Central Electricity Regulatory Commission established under sub-section (1) of section 3;

(b) "Chairperson" means the Chairperson of the Commission;

(c) "Commission" means, the central commission or the State Commission, as the case may be;

(d) "licensee" means any person who holds a licence granted—

(i) by a State Commission in pursuance of clause (b) of sub-section (2) of section 21;

(ii) under Part II of the Indian Electricity Act, 1910;

(iii) under any law for the time being in force in a State for the supply or generation of electricity,

and includes the Boards constituted under section 5 or section 6 of the Electricity (Supply) Act, 1948;

9 of 1910

54 of 1948

(e) "Member" means the Member of the Commission and includes the Chairperson but does not include a Member ex-officio;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "regulations" means regulations made under this Act;

(h) "State Commission" means the State Electricity Regulatory Commission established under sub-section (1) of section 16;

(i) "transmission entity" means any generating company, licensee, or other person engaged in the business of transmission of energy;

(j) words and expressions used and not defined in this Act but defined in the Electricity (Supply) Act, 1948 or the Indian Electricity Act, 1910 shall have the meanings respectively assigned to them in those Acts.

54 of 1948  
9 of 1910**CHAPTER II****CENTRAL ELECTRICITY REGULATORY COMMISSION**Establish-  
ment and  
incorpo-  
ration of  
Central  
Commission.

**3. (1) The Central Government, shall, by notification in the official Gazette, establish a body to be known as the Central Electricity Regulatory Commission to exercise the powers conferred on and the functions assigned to it under this Act.**

(2) The Central Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Central Commission shall be at Delhi or at such other place as the Central Government may, by notification in the Official Gazette, specify.

(4) The Central Commission may, with the previous approval of the Central Government, establish offices at other places in India.

(5) The Central Commission shall consist of the following Members, namely:—

(a) A Chairperson and three other Members;

(b) Chairman of the Central Electricity Authority appointed under sub-section (3) of section 3 of the Electricity Supply Act, 1948, who shall be Member ex-officio.

(6) The Chairperson and the other Members of the Central Commission shall be appointed by the Central Government on the recommendation of the Selection Committee referred to in section 4.

**4. (1)** The Central Government shall, for the purpose of sub-section (6) of section 3, constitute a Selection Committee consisting of—

(a) Member of the Planning Commission in charge of the energy sector; —Chairperson

(b) the Secretary-in-charge of the Ministry of the Central Government dealing with Power; —Member

(c) Secretary-in-charge of the Ministry of the Central Government dealing with the Department of Legal Affairs; —Member

(d) the Chairman of the Public Enterprises Selection Board; —Member

(e) a person to be nominated by the Central Government in accordance with sub-section (2); —Member

(f) a person to be nominated by the Central Government in accordance with sub-section (3). —Member

(2) For the purposes of clause (e) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of Chairman, Managing Director or Director by whatever name called of any public financial institution as specified in section 4A of the Companies Act 1956, to be notified by the Central Government in the Official Gazette for this purpose.

(3) For the purposes of clause (f) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of Director or by whatever name called of any training, technical or management institution notified by the Central Government in the Official Gazette for this purpose.

(4) The Secretary-in-charge of the Ministry of the Central Government dealing with Power shall be the convenor of the Selection Committee.

(5) The Selection Committee shall finalise the selection of the Chairperson and Members within two months from the date on which the reference is made to it.

(6) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(7) Before recommending any person for appointment as a Chairperson or other Member of the Central Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as a Member.

(8) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

**5. (1)** The Chairperson and the Members of the Central Commission shall be persons having adequate knowledge or experience in the field of engineering with specialisation in generation, transmission or distribution of electricity, law, economics, commerce, finance, accountancy or administration.

(2) The Chairperson or any other Member of the Central Commission shall not hold any other office.

(3) The Chairperson shall be the chief executive of the Central Commission and shall exercise such powers and perform such duties as may be prescribed.

Constitution  
of the  
Selection  
Committee to  
recommend  
Members.

Qualification  
for appoint-  
ment of  
Chairperson  
and other  
Members of  
the Central  
Commission.

Term of office, salary and allowances and other conditions of service of Chairperson and Members.

**6. (1)** The Chairperson and every other Member shall hold office for a period of five years from the date on which he enters upon his office or until the age of sixty-two years, whichever is earlier and shall not be eligible for re-appointment:

**(2) The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed.**

**(3)** The salary, allowances and other conditions of service of the Chairperson and the Members shall not be varied to their disadvantage after appointment.

**(4)** The Chairperson and every Member shall before entering upon his office, make and subscribe to, an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

**(5)** Notwithstanding anything contained in sub-section (1), Chairperson or any Member may—

**(a)** relinquish his office by giving in writing to the President notice of not less than three months; or

**(b)** be removed from his office in accordance with the provisions of section 7.

**(6)** The Chairperson or any Member ceasing to hold office as such shall—

**(a)** be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceased to hold such office;

**(b)** not unless permitted by the Central Government accept any commercial employment for a period of two years from the date he ceased to hold such office.

*Explanation*—For the purposes of this sub-section,—

**(a)** employment under the Central Government or under the State Government includes employment under any local or other authority within the territory of India or under the control of the Central Government or State Government or under any corporation or society owned or controlled by the Government.

**(b)** “Commercial employment” means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

Removal of Members.

**7. (1)** Subject to the provisions of sub-section (2), any Member of the Central Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Member, ought on any such ground to be removed.

**(2)** The President may suspend any Member of the Central Commission in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on the receipt of the report of the Supreme Court on such reference.

**(3)** Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be,—

**(a)** is adjudged an insolvent; or

**(b)** engages during his term of office in any paid employment outside the duties of his office; or

(c) is unfit to continue in office by reason of infirmity of mind or body; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

**8. (1)** The Central Commission may appoint a Secretary to exercise and perform under the control of the Chairperson such duties and powers as may be specified by regulations made by the Central Commission.

**(2)** The Central Commission may in consultation with the Central Government, determine the number, nature and categories of other officers and employees required to assist the Central Commission in the discharge of its functions.

**(3) The salaries and allowances payable to and other conditions of service of the Secretary, officers and other employees shall be such as may be determined by regulations by the Central Commission.**

**(4)** The Central Commission may appoint consultants required to assist the Central Commission in the discharge of its functions on terms and conditions as may be determined by regulations made by the Central Commission.

**9. (1)** The Central Commission shall meet at the head office or any of its offices at such times as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed.

**(2)** The Chairperson or, if he is unable to attend a meeting of the Central Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves, shall preside at the meeting.

**(3)** All questions which come up before any meeting of the Central Commission shall be decided by a majority of votes of the Members (including the Member ex-officio) present and voting, and in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.

**(4)** Save as otherwise provided in sub-section (3), every Member of the Board shall have one vote.

**(5)** All orders and decisions of the Central Commission shall be authenticated by the Secretary or any other officer of the Central Commission duly authorised by the Chairperson in this behalf.

**10.** No act or proceedings of the Central Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Central Commission.

Officers of  
the Central  
Commission  
and other  
staff.

Proceedings of  
the Central  
Commission.

Vacancies,  
etc., not to  
invalidate the  
proceedings  
of the  
Central  
Commission.

Expenses of  
Central  
Commission  
to be  
charged on  
Consolidated  
Fund of  
India

Powers of the  
Central  
Commission.

**11. The expenses of the Central Commission including all salaries and allowances payable to or in respect of the Chairperson and the Members of the Central Commission shall be charged upon the Consolidated Fund of India.**

**12. The Central Commission shall, for the purposes of any inquiry or proceedings under this Act have the powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely—**

**(a) the summoning and enforcing of attendance of any witness and examining on oath;**

- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the requisition of any public record;
- (e) the issue of commission for examination of witnesses;
- (f) the appearance of parties and consequences of non-appearance;
- (g) the grant of adjournments at the hearing; and
- (h) the review of its decisions, directions and orders.

### CHAPTER III

#### POWERS AND FUNCTIONS OF THE CENTRAL COMMISSION

**Functions of the Central Commission**

**13.** The Central Commission shall discharge all or any of the following functions, namely:—

- (a) to regulate the tariff of generating companies and transmission entities—
  - (i) owned or controlled by the Central Government;
  - (ii) in public or private sector catering to more than one State.
- (b) to promote competition, efficiency and economy in the activities of the electricity industry,
- (c) to aid and advise the Central government in the formulation of tariff policy which will be fair to the consumers and would facilitate mobilisation of adequate resources for the power sector;
- (d) to associate with the environmental regulatory agencies to develop appropriate policies and procedures for environmental regulation of the power sector;
- (e) to provide guidelines for tariff fixation by State Commissions;
- (f) to adjudicate upon disputes involving generating companies or transmission entities owned or controlled by the Central Government or in the public or private sector catering to more than one State;
- (g) to hear appeals from the orders and decisions of the State Commissions;
- (h) to aid and advise the Central Government on any other matter referred to the Central Commission by that Government.

**Arbitrator to adjudicate and settle disputes.**

**14.** The Central Commission may act as arbitrator or nominate one or more arbitrators to adjudicate and settle disputes involving generating companies or transmission entities—

- (a) owned or controlled by the Central Government;
- (b) in the public or private sector catering to more than one State.

**Appeal to High Court in certain cases**

**15.** (1) Any person aggrieved by any decision or order of the Central Commission may file an appeal to the High Court.

(2) Except as aforesaid, no appeal shall lie to any court from the decision or order of the Central Commission.

(3) Every appeal under this section shall be preferred within thirty days from the date of communication of the decision or order of the Central Commission to the person aggrieved by the said decision or order:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of thirty days:

Provided further that no such appeal shall be entertained after the expiry of sixty days from the communication of the decision or order of the Central Commission to the person so aggrieved.

*Explanation.*—In this section, High Court means—

(i) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and

(ii) where Central Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents ordinarily resides or carries on business or personally works for gain.

#### CHAPTER IV

##### STATE ELECTRICITY REGULATORY COMMISSION

**16. (1) The State Government shall, by notification in the Official Gazette, establish, for the purposes of this Act, a \_\_\_\_\_ (name of the State) Electricity Regulatory Commission.**

Establishment  
and incorpo-  
ration of  
State  
Commission.

(2) The State Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) the head office of the State Commission shall be at such place as the State Government may, by notification in the Official Gazette, specify.

(4) The State Commission may, with the previous approval of the State Government, establish offices at other places in the State.

(5) The State Commission shall consist of not more than three Members.

(6) The Members of the State Commission shall be persons having adequate knowledge or experience in the field of engineering with specialisation in generation, transmission or distribution of electricity, law, economics, commerce, finance, accountancy or administration.

(7) The Members of the State Commission shall be appointed by the State Government on the recommendation of a Selection Committee referred to in section 17.

(8) The State Government shall nominate one of the Members as the Chairperson of the State Commission.

(9) The Chairperson shall be the Chief executive of the State Commission and shall exercise such powers and perform such duties as may be prescribed.

**17. (1) The State Government shall, for the purposes of selecting the Members of the State Electricity Commission, constitute a Selection Committee.**

Constitution  
of Selection  
Committee  
by the State  
Government

(2) The composition of the Selection Committee and the procedure of selection shall be such as may be prescribed by the State Government.

**18. (1) Every Member shall hold office for a period of five years from the date on which he enters upon his office or until the age of sixty-two years, whichever is earlier, and he shall not be eligible for reappointment.**

Term of office,  
salary and  
allowances  
and other  
conditions of  
service of  
Members.

(2) The salary and allowances payable to and the other terms and conditions of service of the Members of the State Commission shall be such as may be prescribed by the State Government.

(3) The salary, allowance and other conditions of service of the Members shall not be varied to their disadvantage after appointment.

(4) Every Member of the State Commission shall, before entering upon his office, make and subscribe to, an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (2), a Member may—

(a) relinquish his office by giving in writing to the Governor notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 19.

(6) Any Member ceasing to hold office as such shall—

(a) be ineligible for further employment under the Central Government or any State Government for a period of two years from the date he ceased to hold such office;

(b) not, unless permitted by the State Government, accept any commercial employment for a period of two years from the date he ceased to hold such office.

*Explanation.*—For the purposes of this sub-section,—

(i) employment under the Central Government or under the State Government includes employment under any local or other authority within the territory of India or under the control of the Central Government or a State Government or under any corporation or society owned or controlled by the Government.

(ii) “commercial employment” means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in any field and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an adviser or a consultant.

**Removal of  
Members**

19. (1) Subject to the provisions of sub-section (2), a Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Member ought on any such ground to be removed.

(2) The Governor may suspend any Member of the State Commission in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything in sub-section (1), the Governor may by order remove from office any Member if such Member—

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is unfit to continue in office by reason of infirmity of mind or body; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the Governor involves moral turpitude.

**Officers of the  
State  
Commission  
and other  
staff.**

20. (1) The State Commission may appoint a Secretary to exercise and perform under the control of the Chairperson such duties and powers as may be specified by regulations made by the State Commission.

(2) The State Commission may, in consultation with the State Government, determine the number, nature and categories of other officers and employees required to assist the State Commission in the discharge of its functions.

(3) The salaries and allowances payable to and other conditions of service of the Secretary, officers and other employees shall be such as may be determined by regulations by the State Commission.

(4) The State Commission may appoint consultants required to assist the State Commission in the discharge of its functions on terms and conditions as may be determined by regulations by the State Commission.

## CHAPTER V

### POWERS AND FUNCTIONS OF THE STATE COMMISSION

21. (1) The State Commission shall discharge all or any of the following functions namely:—

Functions of  
the State  
Commission.

(a) to regulate the bulk tariff of generating companies and transmission entities functioning within the State;

(b) to determine the retail tariff including the wheeling charges for the Boards and licensees;

(c) to promote competition, efficiency and economy in the activities of the electricity industry;

(d) to regulate the working of the licensees with a view to promote their functioning in an efficient economical and equitable manner;

(e) to aid and advise the State Government in drawing up the State power policy which will be fair to the consumer and would facilitate mobilisation of adequate funds and be consistent with the national power policy.

(2) Without prejudice to the above, the State Government may by notification in the Official Gazette assign all or any of the following functions to the State Commission:—

(a) to regulate investment for generation, transmission, distribution and supply of power by the entities to operate only within the State;

(b) to issue licences in regard to generation, transmission, distribution and supply of electricity by entities to operate only within the state;

(c) to lay down safety standards and make arrangements for their enforcement;

(d) to associate with environmental agencies in the State to develop appropriate policies and procedures for environmental regulation of the power sector in the State;

(e) to collect and record information concerning generation, transmission, distribution and utilisation of electricity and publish the details;

(f) to require the units and undertakings owned or controlled by the State Government and by the licensees to formulate proposals, plans and schemes in co-ordination with others for the promotion of generation, transmission, purchase, distribution and supply of electricity and the quality of service including in regard to proper power purchase;

(g) to promote competitiveness and progressively make avenues for the participation of the private sector in generation, transmission, purchase and distribution of electricity within the State for which purpose the Commission shall prepare guidelines in regard to procedure for inviting competitive bids, bid evaluation and other matters;

(h) to adjudicate upon disputes involving generation companies and transmission entities owned or controlled by the State Government and in the public or private sector functioning within the State;

(i) to aid and advise the State Government on any other matter referred to the Commission by the State Government.

(3) Where any of the functions referred to in clause (a) or clause (b) are assigned to a State Commission, that Commission shall exercise those functions in conformity with the national power plan and the State power plan.

**Application of certain provisions relating to Central Commission to State Commission.**

**22.** The provisions of sections 9, 10 and 12 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:—

(a) references to "Central Commission" shall be construed as references to "State Commission";

(b) in sub-section (3) of section 9, the words and brackets "(including the Member ex-officio)" shall be omitted.

**Appeal to Central Commission in certain cases.**

**23. (1)** Any person aggrieved by any decision or order of the State Commission may file an appeal to the Central Commission.

(2) Every memorandum of appeal to the Central Commission shall be in such form, be verified in such manner and accompanied by such fee as may be prescribed by the Central Government.

(3) Every appeal under this section shall be preferred within thirty days from the date of communication of the decision or order of the State Commission to him:

Provided that the Central Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of thirty days:

Provided further that no such appeal shall be entertained after the expiry of sixty days from the communication of the decision or order of the State Commission.

(4) The Central Commission, after giving the parties to appeal a reasonable opportunity of being heard, pass such orders thereon as it may think fit confirming or modifying or annulling the order appealed against or may remand the case to the State Commission which had passed the order with such directions to the State Commission as the Central Commission may think fit for fresh adjudication of the claim after taking additional evidence if necessary.

(5) The Central Commission shall send a copy of every order passed under sub-section (4) to the parties to the appeal.

(6) Except as aforesaid no appeal shall lie to any court from the decision or order of the State Commission.

## CHAPTER VI

### ENERGY TARIFF

**Power to fix tariff.**

**24. (1)** The State Commission may fix the terms and conditions for the determination of revenue and tariff, wholesale, grid and retail, after taking into consideration the following, namely:—

(a) the provisions of section 57 and 57A of the Electricity (Supply) Act, 1948 and the Sixth Schedule thereto;

(b) the interests of the consumers;

- (c) National Power Plans formulated by the Central Government;
- (d) policy guidelines issued from time to time by the Central Commission.

(2) The State Commission shall determine the charges for use of energy by the Board in such manner so as to ensure that there is not less than three per cent. return of the value of the fixed assets of the Board.

*Explanation.*—For the purposes of this sub-sections “value of the fixed assets of the Board” means the original cost of such fixed assets as reduced by the aggregate of the cumulative depreciation in respect of such assets calculated in such manner as may be prescribed by the State Government.

(3) The State Commission may, subject to the provisions of sub-section (3), allow cross subsidisation of the charges for use of energy between different categories of consumers subject to the condition that no category of consumers is required to pay less than fifty per cent. of the average cost of supply of energy:

Provided that the consumers of energy in the agricultural sector may be required to pay within a period of three years from the date on which the charges for energy were fixed for the first time after the commencement of this Act, not less than the said fifty per cent. of the cost of supply of energy but in no case the said charges shall be less than fifty paise per kilowatt hour:

Provided further that the State Commission may, on the request of the State Government, allow cross subsidisation between any category of consumers in such manner so as to require any category of consumers to pay less than the minimum limit specified under this sub-section subject to the condition that if any deviation from tariff recommended by the State Commission is made by the State Government that Government shall make specific provision for the financial burden arising out of such deviation and make monthly subventions for the same.

Provided also that in case of default in providing such subvention by the State Government, the generating company or Board shall be entitled to charge rates of tariff as determined by the State Commission disregarding the deviation sought by the State Government.

*Explanation.*—For the purposes of this sub-section, “average cost of supply” shall include the cost of generation, purchase, transmission and distribution of energy.

(3) Subject to the provisions of sub-sections (2) and (3), the charges for use of energy shall be determined by the State Commission in such manner as may be determined by regulations made by it.

## CHAPTER VII

### REPORT

**25. (1)** The Central Commission shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of energy sector as the Central Government, from time to time, require.

Power to call for reports, returns and statements from Central Commission.

(2) The Central Commission shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Power to call for reports, returns, and statements from State Commission.

**26. (1)** The State Commission shall furnish to the State Government, at such time and in such form and manner as may be prescribed or as the State Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of energy sector as the State Government, from time to time, require.

**(2)** The State Commission shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government.

**(3)** A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before the State Legislature.

## CHAPTER VIII

### MISCELLANEOUS

Members, officers and employees of Central Commission to be public servants.

**27.** The Chairperson, Members, officers and other employees of the Commissions shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860

Protection of action taken in good faith.

**28.** No suit, prosecution or other legal proceedings shall lie against the Central Government or the Central or State Commission or any officer of Central or State Government or any Members, officer or other employees of the Central or State Commission for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Punishment for non-compliance of orders or directions under the Act.

**29.** Whoever fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes, or attempts to contravene or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to rupees one lakh or, with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to rupees four thousand for every day during which the failure continues after conviction of the first such offence.

Punishment for non-compliance of directions given by a Commission.

**30. (1)** In case any complaint is filed before the Commission by any person or if the Commission is satisfied that any person has contravened any directions issued by the Commission under this Act, rules or regulations made thereunder, the Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed rupees one lakh for each contravention and in case of a continuing failure with an additional penalty which may extend to rupees six thousand for every day during which the failure continues after contravention for the first such direction.

**(2)** Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.

Offence by companies.

**31. (1)** Where an offence under this Act has been committed by a company, every person who at the time, the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

**32.** No court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the Commission or by any other officer duly authorised by the Commission for this purpose.

Cognizance of offences.

**33.** Nothing contained in this Act or any rule or regulations made thereunder or any instrument having effect by virtue of this Act, rule or regulations shall have effect in so far as it is inconsistent with any other provisions of the Atomic Energy Act, 1962.

Inconsistency in laws.

33 of 1962

**34.** The Central or the State Commission may, by general or special order in writing, delegate to any Members, officer of the Central or the State Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power to settle disputes under Chapters III and V and the power to make regulations under sections 38 and 41) as it may deem necessary.

Delegation.

**35.** Save as otherwise provided in section 33, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

Overriding effect.

**36.** The Central Government may give directions to a State Government as to the carrying out into execution of this Act in the State.

Power to give directions.

**37. (1)** The Central Government may, by notification, make rules for carrying out the purposes of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the powers which may be exercised and the duties which may be performed by the Chairperson under sub-section (3) of section 5;

(b) the salary and allowances payable to and the other conditions of service of the Chairperson and Members under sub-section (2) of section 6;

(c) the form, manner and the authority before whom oath of office and secrecy should be subscribed under sub-section (4) of section 6;

(d) the rules of procedure to be observed by the Central Commission under sub-section (1) of section 9;

(e) the form and manner in which memorandum of appeal shall be filed and the fees therefor under sub-section (2) of section 23;

(f) the time within and the form and manner in which returns and statements are to be made to the Central Government under sub-section (1) of section 25;

**Power of Central Commission to make regulations.**

**Rules and regulations to be laid before Parliament.**

**Power of State Government to make rules**

(g) the form and time within which annual report should be filed under sub-section (2) of section 25;

(h) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

**38. (1)** The Central Commission may with the previous approval of the Central Government by notification in the Official Gazette make regulations consistent with this Act and the rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters, namely:—

(a) the powers and duties of the Secretary under sub-section (1) of section 8;

(b) the salaries, allowances and other conditions of service of the Secretary, officers and other employees under sub-section (3) of section 8;

(c) the terms and conditions of the consultants appointed under sub-section (4) of section 8.

**39.** Every rule made by the Central Government and every regulation made by the Central Commission under this Act shall be laid, as soon as may be after it is made before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

**40. (1)** The State Government may by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:—

(a) the powers which may be exercised and the duties which may be performed by the Chairperson under sub-section (9) of section 16;

(b) the composition and the procedure to be followed by the Selection Committee under sub-section (2) of section 17;

(c) the salary, allowances and other conditions of service of the Members under sub-section (2) of section 18;

(d) the form and manner in which and the authority before whom the oath of office and secrecy should be subscribed under sub-section (4) of section 18;

(e) the rules of procedure to be observed by the State Commission under section 22;

(f) the manner in which the value of the fixed assets of the Board may be calculated under sub-section (2) of section 24;

(g) the time manner and form in which the returns, statements and particulars to be furnished to the State Government under sub-section (1) of section 26;

(h) the manner and the form in which annual report shall be furnished under sub-section (2) of section 26;

(i) any other matter which is to be, or may be prescribed or in respect of which provision is to be made by rules;

**41. (1)** The State Commission may, by notification in the Official Gazette make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for all or any of the following matters namely:—

(a) the duties and powers of the Secretary under sub-section (1) of section 20;

(b) the salary, allowances and other conditions of service of the secretary, officers and other employees under sub-section (3) of section 20;

(c) the terms and conditions of consultants appointed under sub-section (4) of section 20;

(d) the manner in which charges for energy may be determined under sub-section (3) of section 24;

**42.** Every rule made by the State Government and every regulation made by the State Commission under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

**43. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of parliament.

Power of  
State  
Commission  
to make  
regulation.

Rules and  
regulations to  
be laid before  
State  
Legislature.

Power to  
remove  
difficulties

*Notes on Clauses*

*Clause 2* defines the various expressions occurring in the Bill.

*Clause 3* provides for the establishment and incorporation of the Central Electricity Regulatory Commission (CERC). The CERC shall consist of a Chairperson and four Members of which one shall be Chairman, Central Electricity Authority, as ex-officio Member and others shall be appointed by the Central Government from persons recommended by a Selection Committee constituted for the purpose.

*Clause 4* provides for the constitution of a Selection Committee consisting of six members—Member, Planning Commission; Secretary, Department of Legal Affairs, Chairman, Public Enterprises Selection Board; Secretary (Power) and two other Members co-opted for this purpose. The Secretary (Power) shall be the convener of the Committee.

*Clause 5* provides for the qualifications for appointment as Chairperson and Members of the CERC. The Chairperson and the members shall be having adequate knowledge or experience in the field of Law, economics, commerce, finance, accountancy, administration or engineering (relating to generation, transmission or distribution of electricity).

*Clause 6* provides for the term of office and conditions of service of Chairperson and Members of the CERC. This clause, inter-alia, provides that the Chairperson and Members shall hold office for a period of five years or until the age of sixty-two years whichever is earlier and shall not be eligible for re-appointment after the expiry of his term of appointment.

*Clause 7* provides for the removal of the Chairperson and Members from office under certain circumstances. No member of the CERC including Chairperson shall be removed from the office until a sitting Judge of the Supreme Court has carried out an enquiry and forwarded a report to the President, who may remove from office the Chairperson or Members of CERC.

*Clause 8* contains provisions regarding the appointment of the Secretary, staff and consultants of the CERC.

*Clause 9* contains the proceedings of the CERC. Its headquarters shall be in Delhi. The Commission shall have exclusive power to frame the regulations for the conduct of its proceedings. In case of difference of opinion among the members of the CERC, the opinion of the majority will prevail.

*Clause 10* provides that no act or proceeding of the CERC shall be invalidated for reasons of any vacancy in, or any defect in the constitution of the Commission.

*Clause 11* provides that the expenses of the CERC including salaries and allowances payable to or in respect of Chairperson and Members shall be charged on the Consolidated Fund of India.

*Clause 12* lays down the powers of the CERC. It shall have powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of certain matters.

*Clause 13* lays down the functions of CERC which, inter-alia, shall be:

(a) to regulate the tariff of generating companies and generating utilities owned by the Central Government or in public sector or private sector catering to more than one State;

(b) to promote competition, efficiency and economy in the activities of electrical industry; and

(c) to adjudicate upon disputes and differences between the units and undertakings owned or controlled by the Central Government, Independent Power Producers (IPPs) and licencees or any other matter referred to it by the Government.

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*Clause 14* provides that the CERC may act as an arbitrator or nominate one or more arbitrators to adjudicate and settle the disputes between the licensees.

*Clause 15* contains provisions for filing of an appeal to the High Court by any person aggrieved by any decision or order of the CERC.

*Clause 16* provides for the establishment and incorporation of the state Electricity Regulatory Commissions (SERCs). The SERC shall consist of maximum of three members to be appointed by the State Government from persons selected by the Selection Committee constituted for the purpose. The clause also provides for the conditions for appointment as Members of the SERC. The Chairperson and Members shall be persons of adequate knowledge or experience in the fields of law, economics, commerce, finance, accountancy, administration or engineering (relating to generation, transmission or distribution of electricity).

*Clause 17* empowers the State Government to constitute a Selection Committee for selection of Chairperson and Members of the SERCs.

*Clause 18* provides for the term of office, conditions of service of the Members. This clause inter-alia provides that the Chairperson and Members shall hold office for a period of five years or until the age of 62 years whichever is earlier and shall not be eligible for re-appointment after the expiry of his term of appointment.

*Clause 19* provides for the suspension and removal of the Chairperson/ Members of the SERC, from office under certain circumstances. No Member of the SERC including the Chairperson shall be removed from the office unless on a reference made to the Supreme Court by the President an enquiry has been held and has reported that the Chairperson or Members should be removed.

*Clause 20* contains provisions regarding the appointment of the secretary, Staff and Consultants of the SERCs.

*Clause 21* lays down the functions of the SERCs which, inter-alia, shall be:

(a) to regulate investment and issue licences to generation, transmission and distribution entities both public and private operating only within the State;

(b) to oversee the operations of the State Power Grid;

(c) to approve the power charges negotiated between the State Electricity Board and Independent Power Producers;

(d) to fix tariff for transmission and the margins for distribution companies.

*Clause 22* provides for modified application of certain provisions relating to CERC to SERCs.

*Clause 23* provides for an appeal to the CERC by any person aggrieved by any decision or order of the SERC.

*Clause 24* provides that the SERC shall have power to fix tariff and determine the charges for use of energy within the State so that there is not less than three per cent return of the value of the fixed assets of the Board.

*Clause 25* provides for furnishing of returns, statements and annual report by the CERC to the Central Governments. A copy of the annual report shall be laid, as soon as may be after it is received, before each House of Parliament.

*Clause 26* provides for furnishing of returns statements and annual reports by the SERC to the State Government and for laying of the same before the State Legislature.

*Clause 27* provides that Members, officers and other employees of the CERC/ SERCs shall be deemed to be public servants, within the meaning of section 21 of the Indian Penal Code, 1860.

*Clause 28* makes provision relating to the protection of action taken in good faith by the Central Government/CERC or any officer of the Central or State Government or any Member, officer or other employees of the CERC/SERCs.

*Clause 29* provides for penalty for contravention of the orders/directions given under the provisions of the Bill.

*Clause 30* provides for penalty for contravention of the orders/directions of the CERC/SERCs given under the provisions of the Bill.

*Clause 31* provides that any offence committed by a company and punishable under the Bill will cover the person in charge of the company.

*Clause 32* provides that no court shall take cognizance of an offence under this Bill except upon a complaint in writing made by the CERC/SERCs or any other officer duly authorised for this purpose by the CERC/SERCs.

*Clause 33* provides that nothing contained in the Act shall have effect in so far as it is inconsistent with any other provision of Atomic Energy Act, 1962.

*Clause 34* provides for delegation of certain powers of the CERC and SERC.

*Clause 35* provides that the provisions of this Act shall have effect over other Acts except the Atomic Energy Act, 1962.

*Clause 36* empowers the Central Government to give directions to the State Governments as to the carrying into effect the provisions of the Act.

*Clause 37* confers on the Central Government the power to make rules for carrying out the provisions of the Bill.

*Clause 38* Empowers the CERC to make regulations consistent with the Bill.

*Clause 39* provides for laying of the rules and regulations before Parliament.

*Clause 40* confers on the SERCs the power to make rules for carrying out the provisions of the Bill.

*Clause 41* empowers the State Commission to make regulations consistent with the Bill.

*Clause 42* provides for laying of rules and regulations before the State Legislature.

*Clause 43* empowers Central Government to issue orders for a period of two years from the date of commencement of the Bill, to be published in the Official Gazette, to make such provisions not inconsistent with the provisions of the Bill to remove any difficulty in giving effect to the provisions of the Bill. Every such order shall be laid before each House of Parliament.

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#### STATEMENT OF OBJECTS AND REASONS

India's power sector is beset by problems that impede its capacity to respond to the rapidly growing demand for energy brought by economic liberalization. Despite the stated desire for reform and the initial measures that have been implemented, serious problems persist. As the problems of the Power Sector deepen, reform becomes increasingly difficult underscoring the need to act decisively and without delay. It is essential that the Government implement significant reforms by focusing on the fundamental issues facing the power sector, namely the insufficiency of retail tariffs (hence revenues) the high level of cross-subsidies, poor planning and operation, inadequate capacity, the limited involvement of private sector skills and resources, the excessive involvement of the Government and the absence of an independent regulatory authority. Considering the paramount importance of restructuring the power sector, Government of India organised two Conferences of Chief Ministers to discuss the whole gamut of issues in the power sector and the outcome of these meetings was the adoption of the Common Minimum National Action Plan for Power (CMNPP).

2. The CMNPP recognised that the gap between demand and supply of power is widening and acknowledged that the financial position of State Electricity Boards is fast deteriorating and the future development in the power sector cannot be sustained without viable State Electricity Board and improvement of their operational performance. The CMNPP identified creation of regulatory commission as a step in this direction and specifically provided for establishment for Central Electricity Regulatory Commission (CERC) and State Electricity Regulatory Commissions (SERCs). The Ministry of Power assigned the task of studying the restructuring needs of the regulatory system to Administrative Staff College of India (ASCI) Hyderabad. In order that the CERC/SERCs function in a truly independent manner and discharge their assigned responsibilities effectively, it is proposed to vest them with statutory status. In view thereof, based on the recommendations of the ASCI Report and several rounds of discussions with experts in the field and inter-Ministrial consultations, the Electricity Regulation Commission Bill, 1997 has been finalised.

3. The main functions of the CERC are to regulate the tariff of generating and transmission entities owned or controlled by the Central Government and others catering to more than one State; to promote competition, efficiency and economy in activities of the electricity industry; to adjudicate upon disputes and differences between the units and undertakings owned or controlled by the Central Government; IPPs and the licensees or on any other matter referred to it by the Government. The main functions of the SERC, to start with, would be regulation of tariff of generating and transmission entities functioning within the State; determination of retail tariffs, including wheeling charges for SEBs and licensees, etc. Subsequently as and when each State Government notifies other regulatory functions could also be assigned to SERCs.

4. The Bill seeks to achieve the above objects.

NEW DELHI;  
*The 12th August, 1997.*

DR. Y. K. ALAGH.

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**PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE  
CONSTITUTION OF INDIA**

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[Copy of letter No. 25/12/96-D(SEB) dated the 13th August, 1997 from Dr. Y. K. Alagh, Minister of State (Independent Charge) for Power and Science and Technology to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Electricity Regulatory Commission Bill, 1997 recommends the introduction and consideration of the Electricity Regulatory Commission Bill, 1997 in the House under Articles 117(1) and 117(3) of the Constitution.

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#### FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to provide for the establishment of a Central Electricity Regulatory Commission. Clause 6 provides for the salary and allowances of the Chairperson and the Members. Clause 8 of the Bill provides for the appointment of Secretary and other employees of the Commission and for their salary and allowances.

Clause 11 of the Bill provides that the expenses of the Central Commission including the salary and other allowances shall be charged on the Consolidated Fund of India.

The expenditure towards the pay and allowances of the Chairperson and the Members and other employees is estimated approximately at two crore seventy-five lakhs per annum.

Expenditure for accommodation and establishment including furniture, office equipment, vehicles etc. will approximately rupees two crore thirty-five lakhs which will be of non-recurring.

Clause 16 of the Bill provides for the establishment of State Electricity Regulatory Commissions. Clause 18 of the Bill provides for the salary allowances of the Members. Clause 20 provides for the appointment of Secretary and other employees of the State Commission and for their salary and allowances. These expenses will be met by the State Government.

The Bill does not involve any other expenditure recurring or non-recurring.

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#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 37 of the Bill empowers the Central Government to make rules to provide for among other matters, salaries and allowances and other conditions of service of the Chairperson and Members of the CERC, the rules of procedure to be followed by the Central Commission, the manner and form in which appeals shall be filed to the Central Commission the time within which and the form and manner in which returns and reports are to be made to the Central Government.

Clause 38 of the Bill empowers the Central Commission to make regulations to provide for the powers and duties of the Secretary, salaries, allowances and other conditions of service of the Secretary and other officers and employees etc.

Clause 40 of the Bill empowers the State Government to make rules to provide for composition of the Selection Committee and procedure of selection of the Chairperson and Members of the State Electricity Regulatory Commissions (SERCs), procedure, and transaction of business at its meetings salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the SERCs and the manner of determining the fixed assets of the Board.

Clause 41 of the Bill empowers the State Commission to make regulations to provide for the duties and powers of the Secretary, salary and allowances of the Secretary and other employees of the State Commission and the manner of determining the charges for the use of energy.

The rules and regulations will be laid before both Houses of Parliament where such rules and regulations are made by the Central Government or the Central Commission as the case may be. Similarly rules and regulations made by the State Government and the State Commission will be laid before the State Legislature.

Clause 43 empowers the Central Government to issue orders for a period of two years from the date of commencement of the Bill to be published in the Official Gazette, to make such provisions not inconsistent with the provisions of the Bill to remove any difficulty in giving effect to the provisions of the Bill. Every such order shall be laid before each House of Parliament.

The matters in respect of which rules and regulations may be made are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers is, therefore, normal in character.

S. GOPALAN,  
*Secretary-General.*